IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.210 OF 2007

Mr Rex Fernandes & Anr. ...Applicant

Versus

Mrs Theresa Maria Elena Shenoy & Ors. ...Respondents

Shri P.K.Dhakephalkar, Sr Counsel i/by Shri P.K.Vyas for the Applicant.
Shri S.M.Sakhardande for the Respondent Nos.1 and 2.

CORAM : ABHAY S.OKA, J.
DATED : JUNE 27, 2007.

P.C.:

1. Heard learned senior counsel appearing for the Applicant and the learned counsel appearing for the first and second Respondents. The challenge in this revision Application is to the order dated 15th January, 2007 passed by the learned Judge of the Court of Small Causes. In a suit purportedly filed under the provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, by the impugned order, the learned Judge has held that the Court of Small Causes has jurisdiction to entertain and try the suit. A query was made by this Court as to why a remedy under sub section (3) of section 29 of the said Act of 1947 is not available to challenge the said order. The learned counsel appearing for the parties did not dispute that the said remedy is available. However, the learned senior counsel appearing for the revision Applicants invited my attention to the fact that for challenging the impugned order, the Petitioners had earlier filed a

Writ Petition under Article 227 of the Constitution of India and the said Writ Petition was disposed of by this Court by observing that a remedy under section 115 of the Code of Civil Procedure, 1908 is available.

2. It is obvious that if the revision Applicants file a revision Application under sub section 3 of section 29 of the said Act of 1947, the trial Court is bound to take into consideration the fact that a Writ Petition was filed under Article 227 of the Constitution of India for challenging the impugned order which was disposed of by this Court on 13th April, 2007 and thereafter the present revision Application is filed for challenging the impugned order. The concerned Court will also note that this revision Application was filed in this Court in view of the observations made by the learned single Judge while disposing the Writ Petition by order dated 13th April, 2007. In view of this position, the learned counsel appearing for the first and second Respondent states that the said Respondents will not raise any serious objection to the condonation of delay in filing a revision application under sub-section (3) of section 29 of the said Act of 1947.

3. Subject to what is stated above, the revision Application is dismissed as withdrawn with liberty to adopt remedy under the said Act of 1947. All contentions of the parties on merits are expressly kept

open.

JUDGE